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Manifest Regulations, 310 CMR 30.000
Public Comments Summary
June 2007

Submitters: Clean Harbors Environmental Services, Inc., General Chemical Corporation, Woodard & Curran, Associated Industries of Massachusetts (AIM), and Safety-Kleen Systems, Inc.

1. Is it necessary to include the 3-letter suffix as a required part of the manifest tracking number?

Response: Yes. The 3-letter suffix is an EPA requirement that is intended to avoid duplicating manifest tracking numbers.

2. **14-day Manifest Return Period.** Commenters unanimously supported lengthening the 14-day time limit for facilities sending manifest copies to 30 days, which is allowed under the federal regulations. One commenter noted that the proposed 14-day time frame is shorter than the time allowed to resolve manifest discrepancies without initiating a discrepancy report (15 days), and that copies of the manifest are often distributed and mailed before the facility has successfully contacted the generator and resolved significant discrepancies. If the facility had 30 days to return copies to the generator and state agency, the commenter stated, then any discrepancies could be noted directly on the original manifest and save paper and time associated with the second mailing.

Response: In response to comments received, MassDEP has increased the 14-day time timeframe to 30 days (from the time of delivery) for facilities to send manifest copies to the generator and to the Department. See 310 CMR 30.313(4)(a), 30.314(5)-(6), 30.315(1)(d)2., 30.315(1)(e)1., 30.532(1)(d)-(e), 30.532(3)(d)-(e) Adopting the 30-day timeframe will bring MassDEP in line with the analogous federal regulations at 40 CFR 264.71 and 265.71. In addition, the 14-day limit at 310 CMR 30.313(4)(b) for generators to send MassDEP a photocopy of Copy 3 after receiving it from the designated facility (which is not a federal requirement) is also being changed to 30 days.

3. Generator requirement to send a photocopy of Copy 3 to MassDEP for shipments going directly from the generator to out-of-state facilities. Why is MassDEP imposing an “additional and redundant burden on generators” rather than just rely on out-of-state facilities to mail Copy 2 to MassDEP?

Response: MassDEP is adopting this requirement as proposed because with the new federal manifest form, it must rely on out-of-state facilities to send Copy 2 to MassDEP (the generator state). MassDEP, as the generator state, may ask for but cannot require out-of-state facilities to send it Copy 2, so the requirement at 310 CMR 30.313(4)(b) ensures that MassDEP receives at least one fully-executed copy of the manifest for such shipments. MassDEP disagrees that this generator requirement is redundant because it will provide MassDEP with its only copy when an out-of-state facility fails to submit Copy 2 to MassDEP.

4. Proposed generator record-keeping regulations refer to “fully executed Copy 3.” 310 CMR 30.331(1)(a)1. should also allow for a photocopy of Copy 4 to cover situations where Copy 3 has been lost (in the mail), the generator has called to find out where it is, and the facility faxes a photocopy of their Copy 4.

Response: MassDEP will allow for such substitutions on a case-by-case basis, but will leave the regulations as proposed.

5. Rejected Shipments

- a. One commenter noted that the proposed Rejected Shipment regulations state that a facility may return rejected waste to the generator only if it is impossible to locate an alternate facility for the hazardous waste shipment, and that he objected to this provision if it was intended to be a newly imposed restriction.
- b. One commenter objected to the rejected shipment provisions because it can conflict with the conditions of a hazardous waste facility license, and it raises questions as to where the hazardous waste can be held during the 60-day holding period. For example, can a transporter keep a rejected shipment for the 60-day holding period? The same commenter said the rejection procedures at 310 CMR 30.533 are cumbersome and should not be mandatory.
- c. Two commenters urged MassDEP to include the proposed regulations for Rejected Shipments in the final regulations. One argued the Rejected Shipments provisions should be included in order to be consistent with analogous federal requirements, and another stated that it would be beneficial to have procedures in place so there is no confusion about what needs to be done when these circumstances arise.

Response: MassDEP will adopt the federal rules verbatim for rejected loads and container residue shipments at 310 CMR 30.533 as proposed because it believes that facilities and generators will benefit from having these procedures in place. MassDEP does not consider these new regulations to be “new restrictions,” rather they clarify which procedures facilities should follow for rejected shipments.

This new requirement will not conflict with existing facility license conditions. A facility that rejects a shipment will continue to follow the rejection procedures described in its license. MassDEP will incorporate the requirements of 310 CMR 30.533 in future licenses, which mirror the federal (EPA) rejection procedures.

A transporter may not keep a rejected shipment for the 60-day holding period, since 310 CMR 30.408 limits how long a transporter may hold a hazardous waste shipment. To clarify that 310 CMR 30.533(4) is only intended to give the transporter enough time to take the rejected shipment to either an alternate facility or back to the generator, the phrase “while present at the facility,” is being inserted in the final regulation, immediately after “shall ensure that either the delivering transporter retains custody of the waste”.

6. **Empty Containers.** One commenter stated that the proposed rule for empty containers at 310 CMR 30.533(7) appears to prohibit facilities from accepting containers that contain residues above the limits for “empty” containers set forth in 310 CMR 30.106(2).

Response: Facilities that are authorized to receive containers with hazardous waste residues may do so. This regulation prescribes the steps a facility shall take when it chooses to reject a waste or when a generator has described a container on a manifest as being “RCRA empty” (and RCRA exempt) when it is not. This regulation authorizes the facility to return the rejected waste or the improperly identified container, and describes how to amend the manifest to reflect the discrepancy.

7. Regarding the requirement at 310 CMR 30.533(7) that the facility must re-sign and date the original manifest after a rejection, can it be done in the discrepancy box?

Response: Yes.

8. 310 CMR 30.313(5)(a) requires the designated facility to send Copy 2 of the manifest to the MassDEP or the agency of the generator state. Commenter requested that MassDEP clarify that this requirement applies only to facilities located in Massachusetts since MassDEP has no jurisdiction over facilities located in other states. The same section also requires designated facilities to send copies of the completed manifest to the generator agency without regard to the out-of-state agency’s desire to receive these copies.

Response: A revision has been added at 310 CMR 30.313(5)(a) clarifying that designated facilities located in Massachusetts must send Copy 2 to MassDEP, and that Massachusetts designated facilities receiving from out-of-state generators must also send a manifest copy to that out-of-state agency if required by that agency. Specifically, the phrase “if required” was inserted immediately after “or otherwise the Agency of the generator state” in 310 CMR 30.313(5)(a). MassDEP will also issue guidance to provide additional clarification on this subject.

9. **MassDEP receiving two copies of the completed manifest.** One commenter noted that as proposed, 310 CMR 30.313(5) and (6) will result in MassDEP receiving two copies of the completed manifest if the designated facility is located in Massachusetts. Commenter argues that MassDEP only needs one copy of the completed manifest, and that the regulations should be revised as such.

Response: In the final version of this regulation, 310 CMR 30.313(7) states that Massachusetts designated facilities receiving shipments of hazardous waste from in-state generators need only submit one manifest copy, either Copy 2 or Copy 1, to the Department.